

The Honorable Marsha J. Pechman
The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation; AMAZON.COM SERVICES LLC, a Delaware limited liability company; CANON KABUSHIKI KAISHA, a Japanese corporation; and CANON U.S.A., INC., a New York corporation,

Plaintiffs,

v.

Individuals and entities doing business as certain Amazon Selling Accounts identified in SCHEDULES 1A and 1B; and DOES 1-10,

Defendants.

No. 2:23-cv-00679-MJP-MLP

PLAINTIFFS' STATUS REPORT

Plaintiffs Amazon.com, Inc. and Amazon.com Services LLC (collectively, "Amazon") and Canon Kabushiki Kaisha and Canon U.S.A., Inc. (collectively, "Canon," and together with Amazon, "Plaintiffs") submit this status report in response to the Court's September 20, 2023 Order in this action. Dkt. 10. The Order directed Plaintiffs by January 18, 2024 to: (1) file an Amended Complaint; and (2) serve Defendants, move for alternative service, or, if unable to do so, file a status report detailing their efforts to serve Defendants.

This case involves Defendants' unlawful sale of counterfeit Canon-branded products in the Amazon.com store (the "Amazon Store"). As set forth below, Plaintiffs continue to actively investigate Defendants' true identities and locations and are concurrently filing a Motion for

1 Expedited Discovery to obtain information from a virtual payment processor (Airwallex) linked
2 to one of the Amazon selling accounts (“Selling Accounts”) Defendants used in their scheme.
3 Plaintiffs request permission to submit a status report in 120 days, by which time they expect
4 they will: (1) receive a ruling on the Motion for Expedited Discovery; (2) serve the requested
5 subpoena on Airwallex and obtain responsive documents; (3) complete their investigation of the
6 Defendants responsible for certain of the Selling Accounts; (4) file an Amended Complaint to
7 name the individuals responsible for the Selling Accounts; and (5) move for alternative service.

8 For their response, Plaintiffs further state as follows:

9 1. On May 10, 2023, Plaintiffs filed the Complaint, alleging that Defendants sold
10 counterfeit Canon products in the Amazon Store in violation of Amazon’s policies and Canon’s
11 intellectual property rights. Defendants are the individuals and/or entities responsible for
12 operating the Selling Accounts in the Amazon Store through which they sold counterfeit Canon
13 products. *See* Dkt. 1.

14 2. Plaintiffs have investigated the information that Defendants provided to Amazon
15 when registering their Selling Accounts and have used both publicly available information and
16 specialized databases to research the names and business addresses linked to each such account.
17 Plaintiffs believe that Defendants deliberately misled Amazon as to their true identities and
18 locations by registering their Selling Accounts with falsified information.

19 3. Plaintiffs believe that all Defendants are located in China based on the IP
20 addresses that Defendants used to access the Selling Accounts. As Defendants appear to be
21 located in a foreign country, the 90-day deadline for service of the Complaints is inapplicable.
22 *See* Fed. R. Civ. P. 4(m); *Davis v. Zhou Liang*, 789 F. App’x 66, 67 (9th Cir. 2019) (“Rule 4(m)
23 states that if a defendant is not served within 90 days of the complaint’s filing, a court shall
24 dismiss that action without prejudice unless good cause is shown. However, it also states that this
25 90-day deadline does not apply to service in a foreign country.”).

26 4. In the last several months, Plaintiffs have investigated Defendants’ identities and
27 locations. The investigation revealed that the bank account numbers provided by Defendants in

1 association with their Selling Accounts are virtual bank accounts maintained by two payment
2 service providers. Plaintiffs received information from one payment service provider associated
3 with 28 of the Selling Accounts that identified the individuals who registered the associated bank
4 accounts.

5 5. Plaintiffs' investigation revealed that the remaining Selling Account, Falls Indn,
6 maintained a financial account with virtual payment service provider Airwallex and used that
7 account to receive funds related to their sales in the Amazon Store. Plaintiffs are concurrently
8 filing a Motion for Expedited Discovery, seeking leave to serve a subpoena on Airwallex.
9 Plaintiffs anticipate that the financial records from Airwallex will set forth the names and
10 locations of the bank account holders associated with the Falls Indn Selling Account, as well as
11 deposits and withdrawals of funds to and from such bank account.

12 6. After completing this investigation, Plaintiffs intend to file an Amended
13 Complaint naming the individuals identified in their investigation.

14 7. After Plaintiffs file an Amended Complaint, Plaintiffs anticipate moving for
15 permission to serve Defendants with the Amended Complaint via alternative service, namely by
16 registered email through the email addresses Defendants used to communicate and conduct
17 business with their Selling Accounts. *See, e.g., Amazon.com, Inc. v. Sirowl Tech.*, 2020 WL
18 7122846, at *3 (W.D. Wash. Dec. 4, 2020) (“[P]laintiffs have demonstrated an inability to obtain
19 a valid physical address for defendants and that defendants conduct business through the internet,
20 so that service by email will provide defendants with sufficient notice and an opportunity to
21 respond.”); *Amazon.com, Inc. v. Dafang HaoJiafu Hotpot Store*, 2021 WL 4307067, at *1 (W.D.
22 Wash. Sept. 22, 2021) (“Plaintiffs have shown that Defendants conduct business through the
23 Internet such that ‘service by email will provide defendants with sufficient notice and an
24 opportunity to respond.’” (quoting *Sirowl Tech.*, 2020 WL 7122846, at *3)).

25 8. Plaintiffs respectfully request 120 days to provide this Court with a further status
26 update, which will provide sufficient time for Plaintiffs to receive a ruling on the Motion for
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1 Expedited Discovery, serve a subpoena on Airwallex, receive responsive documents from
2 Airwallex, prepare and file an Amended Complaint, and move for alternative service.

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4 DATED this 18th day of January, 2024.

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